STATE OF TEXAS §
COUNTIES OF ARANSAS §
SAN PATRICIO AND NUECES §
CITY OF ARANSAS PASS §

On this the 3rd day of January, 2006 the City Council of the City of Aransas Pass convened in a Regular Council Meeting being open to the Public at the regular meeting place thereof in the City Hall and notice of said meeting giving the time, place, date and subject hereof having been posted and prescribed by Chapter 551 of the Texas Government Code with the following attendance to wit constituting a quorum.

PRESENT JESUS GALVAN, Mayor

DOROTHY ROBERTS, Mayor Pro Tempore FRANK HAMETNER, Councilmember GRACE CHAPA, Councilmember JAY ATTAWAY, Councilmember

ABSENT: None

**ADMINISTRATIVE** 

PERSONNEL PRESENT: Scott Thompson, City Manager

Allen Lawrence, City Attorney Karen Mayer, City Secretary

ADMINISTRATIVE

PERSONNEL ABSENT: None.

STAFF PRESENT: Darren Gurley, Director of Public Works

C. M. Sullinger, Municipal Court Judge

Gilbert Ritz, Fire Chief

OTHERS PRESENT: Don and Jeanie Brummett, Eva Young, Nancy Allen, Belinda Ritz, Don

Williams, Ken Jones, R. W. Taylor, Jerry Wellman, Dennis Lemon, Earl Buckmaster, Peggy Spencer, Steve Peacock, C. Overturf, Hope Comingore, Capt. Fred Comingore, Jerry and Jeanne Price, Karl Lovett, Gwenlan Sullinger, Tracy Boyce, Ed Redmond, Mary Redmond, Harlan Roberts, Bob Wright, Billy St. Clair, Donna Pancoast, Charlene Lewis, Juan Villanveva, Denise Hollan, Belinda Ritz, Beth Wilson, C. C. Caller, Lisa Burgess, The Herald, Carol Munroe, Aransas Pass Progress.

(There may have been others present who did not sign in).

ITEM 1. CALL MEETING TO ORDER.

Mayor Galvan called the Meeting to Order at 7:00 P.M. on January 3,

2006.

ITEM 2. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE UNITED

STATES FLAG AND THE TEXAS FLAG.

Councilmember Hametner gave the Invocation.

Mayor Pro Tempore Roberts led the Pledge of Allegiance to the United

States Flag and the Texas Flag.

#### ITEM 3.

CITIZENS COMMENTS – "At this time, comments will be taken from the audience on any subject matter that is not on the agenda. In accordance with the Open Meetings Act, Council may not discuss or take action on any item which has not been posted on the agenda".

Mr. Don Williams stated after Hurricane Rita, he and Mr. Tom Hargrave volunteered to do a survey on "Lessons Learned from Hurricane Rita". Mr. Williams presented each Councilmember with a report and stated in the report there is:

- 1. Letter offering his and Mr. Hargrave services to work with City Staffers on the project.
- 2. A "Thank You" letter to the Aransas Pass Progress for their public support in donating the printing and collection of the surveys.
- Open Records Request made and information received.
- 4. Original returned surveys with good suggestions for improvement.
- 5. Advisory from the National Hurricane Center as Hurricane Rita crossed the Gulf.

#### FINDINGS:

Mr. Williams stated that both the current and previous Mayors signed on to the San Patricio County Emergency Plan, which was to serve as a framework from which Cities within the County were to write and maintain a "Local Emergency Disaster Plan". The plan provided by the City in response to "Freedom of Information Requests" was only the County's framework and a letter saying there were no records in any form, e.g., any emails, other text, memos, notes and/or letters, that were for Public Dissemination relating to Hurricane Rita between September 21, 2005 and September 25, 2005. Not even a record of an order allowing citizens to return home. It appears that the City never complied with this County plan and does not have a City Plan, nor did the City comply with the requirement to document all emergency orders issued and/or actions occurring during Hurricane Rita emergency for after-action documentation and reporting.

Mr. Williams stated that the Mayor of Aransas Pass, representing the City Council submitted Resolution 2003-460 to the County Judge on October 6, 2003. That Resolution's opening paragraph says:

Whereas, the City of Aransas Pass by and San Patricio county by Commissioners' Court Order dated February 28, 2005, have established similar programs of comprehensive emergency management which included the mitigation, preparedness response and recovery phases of emergency management.

Mr. Williams stated he is still waiting for the City Emergency Management Plan and every Citizen should want a copy of this Plan. In fact this plan should be widely distributed to the Citizens, Businesses, Property Owners and Visitors. For starters the City Plan should be placed on the Aransas Pass Web site under Public Information. If there is no Plan, please get busy. If a Plan has "turned up" please provide it.

Mr. Williams Thanked the City Council for their time.

Mr. Ralph Arcemont, 131 N. McCann, stated on the Agenda tonight, under Executive Session, are personnel matters concerning the Municipal Judge. He would like to say that Mike Sullinger, Municipal Judge has been a resident of Aransas Pass all of his life and a very outstanding citizen.

Mr. Ken Jones, winter Texan from Michigan, stated at the Council Meeting of December 19, 2005 he expressed his concern about the trash, junk and the people living in trailers and non licensed vehicle along Hwy 361 going to Port Aransas, Texas. He and his friend, Mr. Bob Taylor have made it a point to go out and pick up trash, bottles and cans. The littering along Hwy 361 has been reported to the Police Department and to the City Council. He has a proposal to take down the signs "Don't Mess with Texas" in Aransas Pass, because it is obvious that the people around here do not care. He is going out of his way reporting this to the City Council. He does not want to put his money in this town if the community does not care.

Mr. Robert Taylor, winter Texas from Michigan, stated he is before the Council to do a little follow up from the last City Council Meeting. Has anything been done concerning the junk and the people living in trailers along Hwy 361?

Mr. Darren Gurley stated stickers have been placed on the vehicles letting them know that they are violating the City's Ordinance and have ten days to comply. All of these vehicles are on General Land Office property (GLO) and the City considers that to be Park property. The City is able to enforce these violations through the Park Ordinance.

Mr. Taylor stated in the 1900 block of W. Wheeler, in the parking lot of the shopping center there is a black truck setting there with no tires, how long is that truck going to set there before the City does anything?

City Manager stated that has not been brought to his attention?

Mike Sullinger, Municipal Judge, stated that is private property and the owner has been contacted and stated they would have the vehicle removed.

Mr. Jerry Wellman, 1869 S. Saunders, stated he is before the Council again concerning the docks and trash at Conn Brown Harbor. Every time he receives a complaint from his fishing clients the Council is going to hear about it. Please look into this matter it is very embarrassing.

Ms. Pam Benson, business owner and Aransas Pass Chamber of Commerce representative, stated that she is glad that the Council has taken the steps that they have with the recent City Manager situation. She hopes that the entire City, with this New Year sets forward in a unified state of mind and takes care of business that needs to be taken care of in Aransas Pass.

Ms. Benson invited the City Council members to the Aransas Pass Chamber of Commerce banquet on January 20, 2006, at the North Shore County Club.

Ms. Tracy Boyce, Portland, Texas, stated she is before the Council tonight on behalf of Judge Mike Sullinger, Municipal Court Judge. She has worked with Judge Sullinger for five years and has had the ability to get to know him and how he works within the community. Judge Sullinger works with the juveniles and they respect him as he respects them. She has enjoyed working with Judge Sullinger and hopes that it can continue.

Mr. Billy St. Clair, former Mayor of Aransas Pass, stated he is before the City Council to ask for the Council's support and help for the Municipal Court Judge, Mike Sullinger. Judge Sullinger is an outstanding man that he appointed to the Planning and Zoning Commission. Judge Sullinger served on that board with distinction and served as Interim City Manager with distinction. He is supporting a fine man Judge Sullinger.

Ms. Donna Pancoast, former Chief Court Clerk of Municipal Court for nearly four years. In that time she had the opportunity of working with five different Judges. Most were good representatives of what a Judge should be by exhibiting high moral character, values and a dedication to understanding and upholding the law. Judge Sullinger is an example of these characteristics and it was her privilege to work beside him. In addition she enjoyed working with the many employees of the City of Aransas Pass, but what she did not enjoy was the fear that she might loose her job if injustices were reported in spite of ones dedication and job performance.

Ms. Pancoast stated this is something she never experienced with Judge Sullinger. He worked extremely hard to make Municipal Court a professional working environmental to avoid prejudices in regards to one social standings, disposition or gender. If there was an issue that needed to be address, changed or dealt with, Judge Sullinger did not hesitate to find a solution to the problem.

Ms. Pancoast stated the citizens of Aransas Pass should be honored to have such an ethical individual as Judge Sullinger protecting their rights. On numerous occasions citizens have expressed to her how fair and impartial he was in the courtroom.

Ms. Pancoast stated she urges the Aransas Pass City Council to review the past evaluations of the Municipal Court Judges. In doing so she is certain that the Council will have to not only acknowledge, but also appreciate the honorable way Judge Sullinger carried out the duties of his office and the great work he has done for this community.

consent Agenda — "All of the Following items on the Consent Agenda are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of these items unless a Councilmember so requests. If discussion is desired that item will be removed from the Consent Agenda and will be considered separately".

- A. Approval of Minutes of a Regular Meeting of December 19, 2005 and a Special Meeting of December 29, 2005.
- B. Resolution 2006-546 Manifesting a Conn Brown Harbor Lease Agreement Between the City of Aransas Pass and the Temple of Praise and accepting Certain Terms and Conditions.

<u>ITEM 4.</u>

Mayor Galvan asked if the Council had any question or comments.

City Attorney stated that Item B on the Consent Agenda is the Conn Brown Harbor Lease Agreement with the Temple of Praise and at this time the Temple of Praise has not submitted their Certificate of Insurance.

Mayor Galvan stated that the Council will act on Item A and table Item B until the documentation is received from the Temple of Praise.

Mayor Pro Tempore Roberts made the motion to approve the minutes of the Regular Meeting of December 19, 2005 and a Special Meeting of December 29, 2005 and table Resolution 2006-546. There was a second by Councilmember Hametner and the motion carried.

#### ITEM 5.

### BRIEFING ON CERTIFICATE OF OBLIGATION BONDS FOR UTILITY INFRASTRUCTURE.

Mr. Mark McLiney, Southwest Securities and Financial advisor for the City, stated that at this time last year the City was moving forward with the Texas Water Development Board project to fund the Ransom and Goodnight lift stations. In working with the Texas Water Development Board the City was able to obtain \$1.1 million dollars at a subsidized interest rate of 1 percent. Through the process, the estimated bids came in higher and the Water Development Board is not going to release the funds until the City has additional funds to commit to the project.

Mr. McLiney stated he is before the Council to present a financing option to cover the balance. If the Council wants to move forward with this option, at the next City Council Meeting (January 16, 2006) issue a Notice of Intention to issue Certificate of Obligations, publish this notice two weeks in a row and then fifteen days after the first publication the City would have the ability to authorize the new amount. This will be an open market sale.

Mr. McLiney stated he wanted to brief the City Council to see if that is the direction that the Council would like to go. If it is, he would be back on January 16, 2006 to start the process and the City should have their funds by the end of February, 2006.

Mr. McLiney stated that there is some good news because there was a misunderstanding between him and Naismith Engineering because he thought the cost over was \$1.5 million, but it's only \$500,000.00. He has been running numbers and he was prepared to present information for \$1.5 million.

Mr. McLiney stated at the present time the City is paying on the 1999 Series Bonds and 2005 Bonds (Texas Water Development Board). In this fiscal year if the City does nothing the City will pay \$230,730.00 dollars. That is the Utility System Bond payments. If the City borrows \$500,000.00 the first payment on these bonds would be approximately \$12,500.00. Over the next two years the payments would be approximately \$25,000.00, then the amount will increase to

approximately \$100,000.00. The new total Debt Service will be approximately \$250,000.00 for 2006.

Councilmember Hametner asked could the City refund the 1999 Series Bond and roll that money into the new 2006 Bond?

Mr. McLiney stated that the 1999 Series Bonds are not callable until August 1, 2010. The City has refinanced debt in the past for a lower interest rate, but at this point it is not an option.

Councilmember Attaway asked how was the estimate missed on this project by a third?

Mr. Darren Gurley, Director of Public Works, stated when the City started this project with Mr. Glenn Bridges, Naismith Engineering, he informed Mr. Bridges that the project would consist of repairs to the Ransom Lift Station and Goodnight Lift Station and some manhole repairs. Naismith Engineering came back with a cost estimate of \$1.1 million dollars to handle engineering, debt service, etc. In December, 2005 he received a call from Naismith Engineering saying that the estimated cost was going to be \$1.5 and the manhole repairs had been cut.

Mr. Gurley stated that the explanation that Naismith Engineering provided was that pipe prices have increased, which they have. Pipe prices are tied to fuel cost and after Hurricane Katrina the prices increased and have not gone down. In his opinion the main reason is; Naismith Engineering missed the estimated cost. There is nothing the City can do if we want to complete the project.

Councilmember Attaway stated he would rather have someone over estimate a job than under estimate a job.

Mr. Gurley stated that Naismith Engineering has informed him that \$1.5 is the max.

Councilmember Attaway asked what is the estimated start date on this project?

Mr. Gurley stated when the City receives the funds from the Texas Water Development Board the City can go out for bid. The Texas Water Development Board will not release the fund until they know that the City has the funds to pay for the project.

Mr. McLiney stated the cost to borrow \$500,000.00, to push it to \$600,000.00 will not be anything. The fixed cost to do \$500,000.00 is the same on \$600,000.00. The way the wording will be on the Notice of Intention is for Utility System Improvements. He does not know how important the manhole project is that was deducted. If the manhole projects important, to add \$100,000.00 will not cost the City anymore in services from his company.

Councilmember Attaway asked how much manhole work could be done for \$100,000.00?

Mr. Gurley stated five to ten manholes could be repaired.

Mr. McLiney stated that the City of Aransas Pass has an excellent reputation selling bonds and paying them off. For him to move forward he will need to know how much the City would like to borrow.

Councilmember Hametner stated he would appreciate an itemized list from the City's engineer and the Public Works Director on what needs to be fixed and an estimated cost of fixing it. If possible he would like this for the next City Council Meeting. The Council needs to move forward and inform Mr. McLiney how much the City would like to borrow.

Mr. McLiney stated at the next Council Meeting he can have the Notice of Intention Resolution stating amount not to exceed \$1 million dollars. At that time the City Council can say they would like to only borrow \$500,000.00. The Notice of Intention is a legal authorization and the project can move forward and not delay the process.

Mayor Pro Tempore Roberts stated she thinks that is a worthwhile idea.

Mr. McLiney stated what he is hearing from the Council is to move forward with the Notice of Intention, which will state not to exceed \$1 million dollars. The Notice of Intention will be ready for the Council Meeting of January 16, 2005.

Mayor Galvan stated that no action can be taken on this item tonight, but Mr. McLiney knows what the Council would like to see presented at the next City Council meeting.

Mayor Galvan stated at this time the Council will move to Agenda Item 7.

#### ITEM 7.

# CONSIDER AND ACT ON SUBSTANDARD BUILDING, LOT 9, SHANNON ADDITION, 1225 S. LAMONT, MR. PERRY SMITH, SR., FOR THE PURPOSE OF A FINAL DETERMINATION OF THE VIOLATIONS AND REPAIRS REQUIRED TO MEET THE CITY ORDINANCE.

City Attorney stated the Public Hearing on this matter was held at the Council Meeting of December 19, 2005, but due to an error on the agenda action could not be taken. Mr. Perry Smith, Sr. is deceased and there are no family members that are interested in bring the substandard building up to the City's Code. The Council needs to proceed with the demolition.

Councilmember Hametner made the motion to proceed with the demolition on Lot 9, Shannon Addition 1225 S. Lamont, Mr. Perry Smith, Sr. There was a second by Mayor Pro Tempore Roberts and the motion carried.

#### **ITEM 8.**

## CONSIDER AND ACT ON INTERLOCAL AGREEMENT BETWEEN THE TEXAS DEPARTMENT OF PUBLIC SAFETY FOR OMNIBASE SERVICES.

City Manager stated this is an Interlocal Agreement between the City and the Texas Department of Public Safety, to use the their software in

order to collect outstanding warrants. The City does have a number of outstanding warrants.

Councilmember Chapa made the motion to approve the Interlocal Agreement with the Texas Department of Public Safety for OmniBase Services. There was a second by Councilmember Hametner.

#### IT<u>EM 9.</u>

## RESOLUTION 2006-544 - AUTHORIZING THE ARANSAS PASS POLICE DEPARTMENT TO FILE AN APPLICATION FOR A TEXAS DEPARTMENT OF TRANSPORTATION SPONSORED TRAFFIC ENFORCEMENT PROGRAM STEP WAVE GRANT.

Mr. Darrell Jones, Chief of Police, stated that Resolution 2006-544 is authorizing the Aransas Pass Police Department to file an application for a Texas Department of Transportation Grant in the amount of \$7,782.00. The grant will pay off-duty officer's overtime during holidays, special events and during Shrimporree. This grant will allow more officers on the street during these times.

Councilmember Hametner made the motion to approve Resolution 2006-544 as written. There was a second by Mayor Pro Tempore Roberts and the motion carried.

Caption as follows:

#### RESOLUTION 2006-544

AUTHORIZING THE ARANSAS PASS POLICE DEPARTMENT TO FILE AN APPLICATION FOR A TEXAS DEPARTMENT OF TRANSPORTATION SPONSORED TRAFFIC ENFORCEMENT PROGRAM STEP WAVE GRANT

#### **ITEM 10.**

### RESOLUTION 2006-545 - AUTHORIZING AMENDMENT NUMBER FIVE TO THE CITY OF ARANSAS PASS CAFETERIA PLAN EFFECTIVE DECEMBER 15, 2005.

City Manager stated that Resolution 2006-545 is amending the City of Aransas Pass Cafeteria Plan. This amendment is initiated by the Internal Revenue Service giving the employees that have medical reimbursement, a two-month's grace period. The employees that have this part of the cafeteria plan will actually have eighteen months to spend their allotment instead of twelve. He is recommending that the Council approve Resolution 2006-545.

Mayor Pro Tempore Roberts made the motion to approve Resolution 2006-545 as written. There was a second by Councilmember Hametner and the motion carried.

Caption as follows:

#### **RESOLUTION 2006-545**

AUTHORIZING AMENDMENT NUMBER FIVE TO THE CITY OF ARANSAS PASS CAFETERIA PLAN EFFECTIVE DECEMBER 15, 2005

#### **ITEM 11.**

### CONSIDER AND ACT ON REQUEST OF AMERICAN ALL STAR CIRCUS TO USE THE COMMUNITY PARK FOR TWO TENTED CIRCUS PERFORMANCES ON FEBRUARY 20, 2006.

City Manager stated that this item was tabled at the last Council Meeting so that the history of American All Star Circus could be checked out. The Police Department did a check on their references that were provided and Mr. Jones, Police Chief will discuss the results with the Council.

Mr. Darrel Jones, Police Chief, stated that the references provided by the circus were checked plus additional Cities/Counties were contacted and the information that he received was all-positive. There were no negative comments received. All the Cities that were contacted stated that the clean up the grounds, pick up all the trash and they did not have any problems what so ever.

Mr. Jones stated that the American All Star Circus sent a letter stating that they would include in the contract that the Temple of Praise Church after-school program would receive three percent of the box office. The City will still receive ten percent of the box office plus the \$200.00 dollars.

City Attorney made the recommendation that the motion include that American All Star Circus provides the proper insurance certification.

Mayor Pro Tempore Roberts made the motion to approve the request of American All Star Circus to use the Community Park for two tented circus performances on February 20, 2006 subject to the proper insurance being received and the donations made as promised. There was a second by Councilmember Chapa and the motion carried.

#### ITEM 5.

### PRESENTATION BY MARINAS INTERNATIONAL TO PRESENT CONCEPTS AND PLANS FOR DEVELOPMENT OF CONN BROWN HARBOR.

Mayor Galvan asked if there is a representative present from Marinas International?

There was no one present.

Councilmember Attaway stated he thought Marinas International was going to make their presentation at the second meeting in January, 2006.

City Manager stated he informed them that they would make their presentation at the first meeting in January, 2006.

Mayor Galvan asked the City Manager to contract Marinas International.

Mayor Pro Tempore Roberts made the motion to table Agenda Item 5. There was a second by Councilmember Hametner and the motion carried.

# RECESS REGULAR MEETING AND RETIRE TO EXECUTIVE SESSION PURSUANT TO CHAPTER 551 OF TEXAS GOVERNMENT CODE. Section 551 072 Deliberations Regarding Real Property Staubach

Section 551.072 – Deliberations Regarding Real Property – Staubach Corporation

Section 551.072 – Deliberations Regarding Real Property – VIG Corporation

Section 551.074 – Personnel Matters – Municipal Court Judge

Section 551.074 - Personnel Matters - Alternate Municipal Court Judge

Recessed into Executive Session at 7:45 p.m.

### ITEM 13. RECONVENE IN REGULAR MEETING AND CONSIDER AND ACT ON FINDINGS OF EXECUTIVE SESSION.

Reconvened at 10:27 p.m

Section 551.072 – Deliberations Regarding Real Property – Staubach Corporation

Section 551.072 – Deliberations Regarding Real Property – VIG Corporation

Section 551.074 – Personnel Matters – Alternate Municipal Court Judge

Mayor Galvan stated no action is needed.

Section 551.074 - Personnel Matters - Municipal Court Judge

Mayor Pro Tempore Roberts made the motion to take such action as discussed in Executive Session. There was a second by Councilmember Chapa and the motion carried.

Mayor Pro Tempore Roberts stated that she would like to make a statement. She would like to see the community of Aransas Pass, all City Staff, City Employee and all City Councilmembers to start working together for the betterment of the City. We have to make Aransas Pass a better place for everyone to live and work. Unless we start working together it's not working. Let's put the difference behind us and all pull together.

#### ITEM 11. ADJOURNMENT OF MEETING.

Mayor	Galvan	adjourned	the	meeting	at	10.28	n m
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		Jesus Galvan	Mayor
ATTEST:			
Karen Mayer,	City Secretary		